

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2069.04B
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	October 21, 2003
DATE OF REPORT:	December 4, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	February 5, 2004

**COMPLAINT ISSUES:**

Whether the Crown Point Community School Corporation and the Northwest Indiana Special Education Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written.

511 IAC 7-21-3(c) by failing to provide the student with an instructional day of the same length as the instructional day for nondisabled elementary students in the same school building.

On November 20, 2003, the Director of Special Education granted an extension of time until December 4, 2003, due to the complexity of the second issue.

**FINDINGS OF FACT:**

1. The Student is eleven years old and is eligible for special education and related services due to multiple disabilities.
2. The Student's individualized education program (IEP) for the period from January 6, 2003, through December 4, 2003, provided for instruction in a separate special education classroom (the Special Education Classroom) for most of the school day (22 hours weekly), with the remainder of the day spent in general education classes (art, music, gym, etc.) and lunch with nondisabled peers. The IEP contains an organizational skills goal to increase skills to the second grade level, a reading goal to read passages at the first grade level, a written language goal to increase written language skills to the first grade level, and a math goal to increase math skills to the second grade level. The IEP does not specify particular instructional materials or methodologies.
3. During second semester of the 2002-2003 school year, the Special Education Classroom teacher created instructional materials to supplement and supplant textbooks. In contrast, for a six-week period near the beginning of the 2003-2004 school year, the substitute teacher made greater use of textbooks. Some of the textbooks were third-grade books including, for example, third grade spelling lists. The Student's written language goal included a benchmark referring to a 2<sup>nd</sup> grade spelling list, and the progress reports indicate progress in spelling.
4. The computerized IEP format utilized by the School includes a section immediately following goals and benchmarks that identifies how and when progress will be reported. During the course of the year, teachers are to fill in progress codes and progress reporting notes for each reporting period. The

Student's IEP specified "send with report card" on January 21, 2003, and June 11, 2003, and "copy of goal page" on March 30, 2003, and October 31, 2003. Not all of these dates were report card dates. A previous version of the software menu said "report card," rather than "send with report card."

5. The Parent received report cards. The Parent received a copy of the goal pages, with progress codes and notes, on or about April 23, 2003, but not on the other scheduled dates. The special education cooperative acknowledges that there are no records documenting that progress reports were printed out and sent to parents.
6. As voluntary corrective action, the special education cooperative will contact the parent of each student in the Special Education Classroom to ask whether quarterly progress reports were provided and will send a copy to those who did not receive progress reports. In addition, the special education cooperative has instituted a new practice requiring all special education teachers at the Student's elementary school to note on a parent contact sheet (Form 303) the date that progress reports were provided to parents.
7. The school day at the Student's elementary school ends at 3:23 p.m. The first bell rings at 3:18 p.m., signaling students to return to their homerooms and to get their coats, assignments, etc. The dismissal bell rings at 3:23 p.m.
8. During the 2002-2003 school year and the beginning of the 2003-2004 school year, the school day in the Special Education Classroom ended at 3:00 p.m. The Student's case conference notes for December 5, 2002, state: "It should be noted that Mrs. \_\_\_\_'s students end their day at 3:00 p.m."
9. From January 6, 2003, until the last day of the 2002-2003 school year, the Student went to the Resource Room at 3:00 p.m. where the Student engaged in educational activities until dismissal time. Two additional students from the Special Education Classroom were also in the Resource Room from 3:00 p.m. until dismissal time. The Student and the two additional students accompanied the Resource Room teacher to the bus area.
10. From the first day of the 2003-2004 school year until the date this Complaint was filed, the Student and the two additional students did not go to the Resource Room at 3:00 p.m. The two additional students were in the Special Education Classroom from 3:00 p.m. until dismissal time. Documentation of the Student's location from 3:00 p.m. until dismissal time has not been provided. On one occasion, the Parent found the Student waiting in the lobby prior to 3:18 p.m.
11. Through case conference committee (CCC) decisions, the school day has been varied for some students in the Special Education Classroom. However, the Student's CCC did not propose, and the Parent did not agree to, a school day that is different in length or timing from general education students' school day. Without CCC decisions, some students in the Special Education Classroom were dismissed early, because their respective buses came to the school early. However, the Student's schedule is not affected by transportation issues, as the Student attends the school the Student would attend if not disabled. The Student walks home from school or is picked up by the Parent.
12. During the course of this complaint investigation, the School discontinued the practice of dismissing students from the Special Education Classroom before the end of the school day, except in those cases in which CCC decisions provide for shortened school days or different beginning/ending times.

## **CONCLUSIONS:**

1. Findings of Fact #2 and #3 indicate that, with respect to instructional materials and methodologies, the Student's IEP was non-specific and, therefore, changes in instructional materials and practices did not constitute a failure to implement the IEP as written. Findings of Fact #4 and #5 indicate that progress reports were not provided at the times specified in the Student's IEP. Therefore, a violation of 511 IAC 7-27-7(a) occurred with respect to implementing the requirement to inform the parents, at times specified in the IEP, of the Student's progress toward the annual goals. However, Finding of Fact #6 indicates that voluntary corrective action has been proposed.
2. Findings of Fact #7, #8, #9, #10, and #11 indicate that, from the beginning of the 2003-2004 school year, the Student was not provided with an instructional day of the same length as the instructional day for nondisabled elementary students in the same school building. Therefore, a violation of 511 IAC 7-21-3(c) occurred. However, Finding of Fact #12 indicates that the violation is no longer occurring.

**The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

Crown Point Community School Corporation and the Northwest Indiana Special Education Cooperative shall:

1. By December 19, 2003, implement the voluntary corrective action described in Finding of Fact #6. Documentation of compliance (consisting of a copy of the letter sent to parents) shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by December 31, 2003.
2. By January 15, 2004, convene the Student's case conference committee to consider the nature and amount of compensatory services to be provided to the Student as corrective action for the shortened school day from the beginning of the 2003-2004 school year until the discontinuation of the practice of ending instruction (or educational activities) at 3:00 p.m. Documentation of compliance consisting of a copy of the CCC Report shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by January 30, 2004.
3. By December 31, 2003, send a letter to the parents of the two additional students referenced in Findings of Fact #9 and #10, notifying the parents that he/she may request a case conference committee meeting to consider whether his/her student is entitled to compensatory services as corrective action for the shortened school day from the beginning of the 2003-2004 school year until the discontinuation of the practice of ending instruction (or educational activities) at 3:00 p.m. Documentation of compliance (consisting of a copy of the letters to their parents and their responses) shall be submitted to the Indiana Department of Education, Division of Exceptional Learners, by January 30, 2004.